

REMARKS

In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject Application.

Rejection of the Claims

In the Office Action mailed January 25th, 2005, claims 1-4, 17-20, 33-36 and 49 were rejected for double patenting. Claims 1-4 were rejected under 35 U.S.C. § 102(e) as being anticipated. Claims 17-20, 33-36 and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable.

Claims 1, 17, and 33 are amended. No claims are canceled. Claims 1-4, 17-20, 33-36 and 49 remain in the Application for consideration.

CLAIM REJECTIONS – DOUBLE PATENTING

Claims 1-4, 17-20, 33-36 and 49 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of US Patent No. 6,118, 817.

Applicant acknowledges the double patenting rejection and is willing to file a terminal disclaimer at such a time as the double patenting rejection remains as the sole claim rejection for otherwise allowable claims.

CLAIM REJECTIONS §102

Claims 1-4 are rejected under §102 as being anticipated by US Patent No. 5,978, 544 to Shimada et al (hereinafter, "Shimada").

1 **Claim 1** is directed to method for encoding a motion video signal and is
2 amended to recite:

- 3 • determining a desired size for a first frame of the motion video
4 signal;
5 • encoding the first frame of the motion video signal to form an
6 encoded frame;
7 • determining an encoded size of the encoded frame;
8 • comparing the encoded size to the desired size;
9 • adjusting an encoding parameter such that encoding the first
10 frame according to the encoding parameter as adjusted would
11 form a different encoded frame having a size closer to the desired
12 size than the encoded size is to the desired size, and wherein the
13 adjusted encoding parameter compensates for no more than about
14 50 percent of any difference between the encoded size and the
15 desired size; and
16 • encoding a second frame of the motion video signal according to
17 the encoding parameter as adjusted.

18
19 These limitations are not described or taught by the art of record.
20 Accordingly, Applicant respectfully requests that the §102 rejections of claim 1 be
21 withdrawn.

22 **Claims 2-4** depend from claim 1, and at least based upon the limitations of
23 claim 1 described above, Applicant respectfully requests that the §102 rejection of
24 claims 2-4 be withdrawn.
25

CLAIM REJECTIONS §103

Claims 17-20, 33-36 and 49 are rejected under §103 as being unpatentable over US Patent No. 5,978, 544 to Shimada et al (hereinafter, "Shimada") in view of US Patent No. 5,815,217 to Kumazawa et al (hereinafter, "Kumazawa").

Claims 17 and 33 are amended to recite limitations similar to those described above in relation to claim 1 which are not taught or suggested by the art of record. Accordingly, Applicant respectfully requests that the §103 rejections of claims 17 and 33 be withdrawn.

Claims 18-20, 34-36 and 49 depend from independent claims 1, 17 and 33. At least for the reasons described above in relation to the above mentioned independent claims, Applicant respectfully requests that the §103 rejection of claims 18-20, 34-36 and 49 be withdrawn.


Conclusion

Applicant submits that the above pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the present Application. Should any issue remain that prevents immediate issuance of the Application, the Examiner is encouraged to contact the undersigned attorney to discuss the unresolved issue.

Respectfully Submitted,

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Dated: 4/25/05


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